S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. CORWIN, ERRIGO, GIGLIO, KOLB, MOLINARO, WALKER -- Multi-Sponsored by -- M. of A. BARCLAY, McDONOUGH, RAIA, SAYWARD, TOWNSEND -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing for a personal income tax credit for resident taxpayers who are first time home buyers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 606 of the tax law is amended by adding a new subsection (qq) to read as follows:

(QQ) FIRST TIME HOME BUYERS' CREDIT. (1) A RESIDENT TAXPAYER WHO IS A FIRST TIME HOME BUYER, WHO PURCHASES A QUALIFYING PRIMARY RESIDENCE IN THIS STATE ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN, AND WHOSE ADJUSTED GROSS INCOME DOES NOT EXCEED ONE HUNDRED THOUSAND DOLLARS FOR MARRIED RESIDENT TAXPAYERS FILING JOINTLY OR FIFTY THOUSAND DOLLARS FOR ALL OTHER RESIDENT TAXPAYERS, SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE. FOR A QUALIFYING PRIMARY RESIDENCE THE AMOUNT OF THE CREDIT SHALL BE TWO THOUSAND DOLLARS.

(2) THE CREDIT UNDER THIS SUBSECTION SHALL BE ALLOWED AGAINST THE TAXES IMPOSED BY THIS ARTICLE FOR THE TAXABLE YEAR REDUCED BY THE CREDITS PERMITTED BY THIS ARTICLE. IF THE CREDIT EXCEEDS THE TAX AS SO REDUCED, THE TAXPAYER SHALL RECEIVE, AND THE COMPTROLLER, SUBJECT TO A CERTIFICATE OF THE COMMISSIONER, SHALL PAY AS AN OVERPAYMENT, WITHOUT INTEREST, THE AMOUNT OF SUCH EXCESS.

(3) IN THE CASE OF A HUSBAND OR WIFE WHO BOTH RESIDE IN THE QUALIFYING PRIMARY RESIDENCE AND WHO ARE REQUIRED TO FILE A SEPARATE RETURN, THE CREDIT ALLOWED UNDER THIS SUBSECTION SHALL BE EQUALLY DIVIDED BETWEEN THE TWO SEPARATE RETURNS FOR THAT TAXABLE YEAR.

(4) IN THE CASE OF JOINT TENANTS OR TENANTS IN COMMON PURCHASING THE SAME QUALIFYING PRIMARY RESIDENCE OF WHICH THAT RESIDENCE IS A PRIMARY QUALIFYING RESIDENCE FOR ALL THE PARTIES INCLUDED IN THE PURCHASE, THE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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TAX CREDIT UNDER THIS SUBSECTION SHALL BE DIVIDED EQUALLY AMONG ALL THE PURCHASING PARTIES.

(5) FOR PURPOSES OF THE CREDIT DESCRIBED IN THIS SUBSECTION, A "FIRST TIME HOME BUYER" IS ANY INDIVIDUAL OR GROUP OF INDIVIDUALS WHO HAVE PURCHASED A QUALIFYING PRIMARY RESIDENCE WHERE THAT INDIVIDUAL OR ANY INDIVIDUAL WITHIN THE GROUP OF INDIVIDUALS THAT HAVE PURCHASED SUCH A RESIDENCE HAS NOT OWNED, IN WHOLE OR IN PART, A QUALIFYING PRIMARY RESIDENCE OR OTHER RESIDENTIAL PROPERTY WITHIN THE FIVE YEAR PERIOD NEXT PRECEDING THE PURCHASE. A "QUALIFYING PRIMARY RESIDENCE" IS ANY ONE, TWO, OR THREE-FAMILY HOME, TOWNHOUSE, MOBILE HOME, OR CONDOMINIUM THAT IS LOCATED IN THE STATE OF NEW YORK AND IS USED PRIMARILY FOR RESIDENTIAL PURPOSES. A QUALIFYING PRIMARY RESIDENCE MUST ALSO BE ONE PURCHASED FOR FAIR MARKET VALUE, WHICH PURCHASE PRICE MAY NOT EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS, EXCEPT THAT THE PURCHASE PRICE MAY EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS BUT NOT EXCEED THE MEDIAN HOME VALUE FOR THE COUNTY IN WHICH IT IS LOCATED, AS DETERMINED BY THE DEPARTMENT, IF SUCH MEDIAN HOME VALUE EXCEEDS ONE HUNDRED FIFTY THOUSAND DOLLARS. THE PURCHASER OF SUCH PROPERTY MUST RESIDE AT SUCH PROPERTY FOR MORE THAN FOUR-FIFTHS OF THE TIME FROM THE DATE OF PURCHASE TO THE CLOSING OF THE TAX YEAR OR SALE OF SUCH PROPERTY WITHIN THAT TAX YEAR.

S 2. This act shall take effect immediately and shall apply to taxable years commencing on or after January 1, 2010.